

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JENNIFER WELLS,

Plaintiff,

-v-

UNIVERSAL PROTECTION SERVICE, LLC,

Defendant.

CIVIL ACTION NO.: 20 Civ. 7041 (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

The parties in this wage-and-hour case under the Fair Labor Standards Act (“FLSA”) have consented to my jurisdiction under 28 U.S.C. 636(c) and Fed. R. Civ. P. 73 for purposes of reviewing their proposed settlement (ECF No. 28), and have submitted a joint Letter-Motion in support of settlement (“Joint Letter-Motion” (ECF No. 27)) and proposed settlement agreement (“Settlement Agreement” (ECF No. 27-1)) for approval under Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015). The parties note in the Joint Letter-Motion that the Settlement Agreement has not yet been signed by Defendant. (ECF Nos. 27; 27-1 at 9).

“Where a proposed settlement of FLSA claims includes the payment of attorney’s fees, the court must also assess the reasonableness of the fee award.” Wolinsky v. Scholastic Inc., 900 F. Supp. 2d 332, 336 (S.D.N.Y. 2012) (citing 29 U.S.C. § 216(b)). “To aid a court in determining the reasonableness of proposed attorney’s fees, counsel must submit evidence providing a factual basis for the award.” Id. “In the Second Circuit, that entails submitting contemporaneous billing records documenting, for each attorney, the date, the hours expended, and the nature of the

work done.” Id. (citing N.Y. State Ass’n for Retarded Children, Inc. v. Carey, 711 F.2d 1136, 1148 (2d Cir. 1983)).

Although the Settlement Agreement contemplates an allocation of attorneys’ fees and costs to Plaintiffs’ counsel, the parties have not submitted for the Court’s review Plaintiff’s counsel’s billing records and costs documentation, without which the Court cannot complete its review of the proposed settlement. See Mamani v. Licetti, No. 13 Civ. 7002 (KMW) (JCF), 2014 WL 2971050, at *3 (S.D.N.Y. July 2, 2014) (rejecting request of attorneys’ fees in the absence of substantiating documentation that would allow the court to assess the reasonableness of the fee).

Accordingly, **by April 16, 2021**: (i) Plaintiff’s counsel shall submit appropriate billing records and costs documentation corresponding with the requested amount of attorneys’ fees and costs in the proposed settlement; and (ii) the parties shall provide a fully executed copy of the Settlement Agreement.

Dated: New York, New York
April 9, 2021

SO ORDERED



SARAH L. CAVE
United States Magistrate Judge